

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill was ordered to a third reading and was read the third time.

Ms. HASSAN. I know of no further debate on the bill.

The PRESIDING OFFICER. If there is no further debate on the bill, the bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 263) was passed.

Ms. HASSAN. I ask unanimous consent that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNLEASHING AMERICAN INNOVATORS ACT OF 2022

Ms. HASSAN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 571, S. 2773.

The PRESIDING OFFICER. The clerk will report the bill by title.

The senior assistant legislative clerk read as follows:

A bill (S. 2773) to amend the Leahy-Smith America Invents Act to address satellite offices of the United States Patent and Trademark Office, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the part printed in italic as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Unleashing American Innovators Act of 2022”.

SEC. 2. DEFINITIONS.

In this Act:

(1) **DIRECTOR.**—The term “Director” means the Under Secretary of Commerce for Intellectual Property and Director of the Office.

(2) **OFFICE.**—The term “Office” means the United States Patent and Trademark Office.

(3) **PATENT PRO BONO PROGRAMS.**—The term “patent pro bono programs” means the programs established pursuant to section 32 of the Leahy-Smith America Invents Act (35 U.S.C. 2 note).

(4) **SOUTHEAST REGION OF THE UNITED STATES.**—The term “southeast region of the United States” means the area of the United States that is comprised of the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Tennessee, Alabama, Mississippi, Louisiana, and Arkansas.

SEC. 3. SATELLITE OFFICES.

(a) **AMENDMENTS TO PURPOSE AND REQUIRED CONSIDERATIONS.**—Section 23 of the Leahy-Smith America Invents Act (35 U.S.C. 1 note) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking “increase outreach activities to”; and

(ii) by inserting after “Office” the following: “, including by increasing outreach activities, including to individual inventors, small businesses, veterans, low-income populations, students, rural populations, and any geographic group of innovators that the Director may determine to be underrepresented in patent filings”; and

(B) by striking paragraph (2) and inserting the following:

“(2) enhance patent examiner and administrative patent judge retention, including patent ex-

aminers and administrative patent judges from economically, geographically, and demographically diverse backgrounds.”; and

(2) in subsection (c)(1)—

(A) in subparagraph (D), by striking “and” at the end;

(B) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(F) with respect to each office established after January 1, 2023, shall consider the proximity of the office to anchor institutions (such as hospitals primarily serving veterans and institutions of higher education), individual inventors, small businesses, veterans, low-income populations, students, rural populations, and any geographic group of innovators that the Director may determine to be underrepresented in patent filings.”.

(b) **SOUTHEAST REGIONAL OFFICE.**—

(1) **IN GENERAL.**—Not later than 3 years after the date of enactment of this Act, the Director shall establish a satellite office of the Office in the southeast region of the United States.

(2) **CONSIDERATIONS.**—When selecting a site for the office required under paragraph (1), the Director shall consider the following:

(A) The number of patent-intensive industries located near the site.

(B) How many research-intensive institutions, including institutions of higher education, are located near the site.

(C) The State and local government legal and business frameworks that support intellectual property-intensive industries located near the site.

(c) **STUDY ON ADDITIONAL SATELLITE OFFICES.**—Not later than 2 years after the date of enactment of this Act, the Director shall complete a study to determine whether additional satellite offices of the Office are necessary to—

(1) achieve the purposes described in section 23(b) of the Leahy-Smith America Invents Act (35 U.S.C. 1 note), as amended by this section; and

(2) increase participation in the patent system by individual inventors, small businesses, veterans, low-income populations, students, rural populations, and any geographic group of innovators that the Director may determine to be underrepresented in patent filings.

SEC. 4. COMMUNITY OUTREACH OFFICES.

(a) **ESTABLISHMENT.**—

(1) **IN GENERAL.**—Subject to paragraphs (2) and (3), not later than 5 years after the date of enactment of this Act, the Director shall establish not fewer than 4 community outreach offices throughout the United States.

(2) **RESTRICTION.**—No community outreach office established under paragraph (1) may be located in the same State as—

(A) the principal office of the Office; or

(B) any satellite office of the Office.

(3) **REQUIREMENT FOR NORTHERN NEW ENGLAND REGION.**—

(A) **IN GENERAL.**—The Director shall establish not less than 1 community outreach office under this subsection in the northern New England region, which shall serve the States of Vermont, New Hampshire, and Maine.

(B) **CONSIDERATIONS.**—In determining the location for the office required to be established under subparagraph (A), the Director shall give preference to a location in which—

(i) as of the date of enactment of this Act—

(I) there is located not less than 1 public institution of higher education and not less than 1 private institution of higher education; and

(II) there are located not more than 15 registered patent attorneys, according to data from the Office of Enrollment and Discipline of the Office; and

(ii) according to data from the 2012 Survey of Business Owners conducted by the Bureau of the Census, less than 45 percent of the firms (as that term is defined for the purposes of that Survey) are owned by women, minorities, or veterans.

(b) **PURPOSES.**—The purposes of the community outreach offices established under subsection (a) are to—

(1) further achieve the purposes described in section 23(b)(1) of the Leahy-Smith America Invents Act (35 U.S.C. 1 note), as amended by this Act;

(2) partner with local community organizations, institutions of higher education, research institutions, and businesses to create community-based programs that—

(A) provide education regarding the patent system; and

(B) promote the career benefits of innovation and entrepreneurship; and

(3) educate prospective inventors, including individual inventors, small businesses, veterans, low-income populations, students, rural populations, and any geographic group of innovators that the Director may determine to be underrepresented in patent filings, about all public and private resources available to potential patent applicants, including the patent pro bono programs.

SEC. 5. UPDATES TO THE PATENT PRO BONO PROGRAMS.

(a) **STUDY AND UPDATES.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Director shall—

(A) complete a study of the patent pro bono programs; and

(B) submit the results of the study required under subparagraph (A) to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

(2) **SCOPE OF THE STUDY.**—The study required under paragraph (1)(A) shall—

(A) assess—

(i) whether the patent pro bono programs, as in effect on the date on which the study is commenced, are sufficiently serving prospective and existing participants;

(ii) whether the patent pro bono programs are sufficiently funded to serve prospective participants;

(iii) whether any participation requirement of the patent pro bono programs, including any requirement to demonstrate knowledge of the patent system, serves as a deterrent for prospective participants;

(iv) the degree to which prospective inventors are aware of the patent pro bono programs;

(v) what factors, if any, deter attorneys from participating in the patent pro bono programs;

(vi) whether the patent pro bono programs would be improved by expanding those programs to include non-attorney advocates; and

(vii) any other issue the Director determines appropriate; and

(B) make recommendations for such administrative and legislative action as may be appropriate.

(b) **USE OF RESULTS.**—Upon completion of the study required under subsection (a), the Director shall work with the Pro Bono Advisory Council, the operators of the patent pro bono programs, and intellectual property law associations across the United States to update the patent pro bono programs in response to the findings of the study.

(c) **EXPANSION OF INCOME ELIGIBILITY.**—

(1) **IN GENERAL.**—The Director shall work with and support, including by providing financial support to, existing patent pro bono programs and intellectual property law associations across the United States to expand eligibility for the patent pro bono programs to an individual living in a household, the gross household income of which is not more than 400 percent of the Federal poverty line.

(2) **RULE OF CONSTRUCTION.**—Nothing in paragraph (1) may be construed to prevent a patent pro bono program from electing to establish a higher eligibility level, as compared to the level described in that paragraph.

SEC. 6. PRE-PROSECUTION ASSESSMENT PILOT PROGRAM.

(a) **PILOT PROGRAM.**—Not later than 1 year after the date of enactment of this Act, the Director shall establish a pilot program to assist first-time prospective patent applicants in assessing the strengths and weaknesses of a potential patent application submitted by such a prospective applicant.

(b) **CONSIDERATIONS.**—In developing the pilot program required under subsection (a), the Director shall establish—

(1) a notification process to notify a prospective patent applicant seeking an assessment described in that subsection that any assessment so provided may not be considered an official ruling of patentability from the Office;

(2) conditions to determine eligibility for the pilot program, taking into consideration available resources;

(3) reasonable limitations on the amount of time to be spent providing assistance to each individual first-time prospective patent applicant;

(4) procedures for referring prospective patent applicants to legal counsel, including through the patent pro bono programs; and

(5) procedures to protect the confidentiality of the information disclosed by prospective patent applicants.

SEC. 7. FEE REDUCTION FOR SMALL AND MICRO ENTITIES.

(a) **TITLE 35.**—Section 41(h) of title 35, United States Code, is amended—

(1) in paragraph (1), by striking “50 percent” and inserting “60 percent”; and

(2) in paragraph (3), by striking “75 percent” and inserting “80 percent”.

(b) **FALSE CERTIFICATIONS.**—Title 35, United States Code, is amended—

(1) in section 41, by adding at the end the following:

“(j) **PENALTY FOR FALSE ASSERTIONS.**—In addition to any other penalty available under law, an entity that is found to have falsely asserted entitlement to a fee reduction under this section shall be subject to a fine, to be determined by the Director, the amount of which shall be not less than 3 times the amount that the entity failed to pay as a result of the false assertion, whether the Director discovers the false assertion before or after the date on which a patent has been issued.”; and

(2) in section 123, by adding at the end the following:

“(f) **PENALTY FOR FALSE CERTIFICATIONS.**—In addition to any other penalty available under law, an entity that is found to have falsely made a certification under this section shall be subject to a fine, to be determined by the Director, the amount of which shall be not less than 3 times the amount that the entity failed to pay as a result of the false certification, whether the Director discovers the false certification before or after the date on which a patent has been issued.”.

(c) **LEAHY-SMITH AMERICA INVENTS ACT.**—Section 10(b) of the Leahy Smith America Invents Act (35 U.S.C. 41 note) is amended—

(1) by striking “50 percent” and inserting “60 percent”; and

(2) by striking “75 percent” and inserting “80 percent”.

(d) **STUDY ON FEES.**—

(1) **IN GENERAL.**—Not later than 2 years after the date of enactment of this Act, the Director shall—

(A) complete a study of the fees charged by the Office; and

(B) submit the results of the study required under subparagraph (A) to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

(2) **SCOPE OF STUDY.**—The study required under paragraph (1)(A) shall—

(A) assess whether—

(i) fees for small and micro entities are inhibiting the filing of patent applications by those entities;

(ii) fees for examination should approximately match the costs of examination and what incentives are created by using maintenance fees to cover the costs of examination; and

(iii) the results of the assessments performed under clauses (i) and (ii) counsel in favor of changes to the fee structure of the Office, such as—

(I) raising standard application and examination fees;

(II) reducing standard maintenance fees; and

(III) reducing the fees for small and micro entities as a percentage of standard application fees; and

(B) make recommendations for such administrative and legislative action as may be appropriate.

Ms. HASSAN. I ask unanimous consent that the committee-reported substitute amendment be agreed to; the bill, as amended, be considered read a third time and passed; and that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee-reported amendment, in the nature of a substitute, was agreed to.

The bill (S. 2773), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

REQUIRING THE COMMISSIONER OF U.S. CUSTOMS AND BORDER PROTECTION TO ESTABLISH PROCEDURES FOR CONDUCTING MAINTENANCE PROJECTS AT PORTS OF ENTRY

Ms. HASSAN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 526, S. 3903.

The PRESIDING OFFICER. The clerk will report the bill by title.

The senior assistant legislative clerk read as follows:

A bill (S. 3903) to require the Commissioner of U.S. Customs and Border Protection to establish procedures for conducting maintenance projects at ports of entry at which the Office of Field Operations conducts certain enforcement and facilitation activities.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Homeland Security and Governmental Affairs with an amendment to strike all after the enacting clause and insert the part printed in italic as follows:

SECTION 1. PORT MAINTENANCE.

(a) **IN GENERAL.**—Section 411(o) of the Homeland Security Act of 2002 (6 U.S.C. 211(o)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

“(3) **PORT MAINTENANCE.**—

“(A) **PROCEDURES.**—

“(i) **IN GENERAL.**—Subject to subparagraphs (B) and (C), the Commissioner, in consultation with the Administrator of the General Services Administration—

“(I) shall establish procedures by which U.S. Customs and Border Protection may conduct maintenance and repair projects costing not more than \$300,000 at any Federal Government-

owned port of entry where the Office of Field Operations performs any of the activities described in subparagraphs (A) through (G) of subsection (g)(3); and

“(II) is authorized to perform such maintenance and repair projects, subject to the procedures described in clause (ii).

“(ii) **PROCEDURES DESCRIBED.**—The procedures established pursuant to clause (i) shall include—

“(I) a description of the types of projects that may be carried out pursuant to clause (i); and

“(II) the procedures for identifying and addressing any impacts on other tenants of facilities where such projects will be carried out.

“(iii) **PUBLICATION OF PROCEDURES.**—All of the procedures established pursuant to clause (i) shall be published in the Federal Register.

“(iv) **RULE OF CONSTRUCTION.**—The publication of procedures under clause (iii) shall not impact the authority of the Commissioner to update such procedures, in consultation with the Administrator, as appropriate.

“(B) **LIMITATION.**—The authority under subparagraph (A) shall only be available for maintenance and repair projects involving existing infrastructure, property, and capital at any port of entry described in subparagraph (A).

“(C) **ANNUAL ADJUSTMENTS.**—The Commissioner shall annually adjust the amount described in subparagraph (A) by the percentage (if any) by which the Consumer Price Index for All Urban Consumers for the month of June preceding the date on which such adjustment takes effect exceeds the Consumer Price Index for All Urban Consumers for the same month of the preceding calendar year.

“(D) **RULE OF CONSTRUCTION.**—Nothing in this paragraph may be construed to affect the availability of funding from—

“(i) the Federal Buildings Fund established under section 592 of title 40, United States Code;

“(ii) the Donation Acceptance Program established under section 482; or

“(iii) any other statutory authority or appropriation for projects described in subparagraph (A).”.

(b) **REPORTING.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Commissioner of U.S. Customs and Border Protection shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Appropriations of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Appropriations of the House of Representatives that includes the elements described in paragraph (2).

(2) **ELEMENTS.**—The report required under paragraph (1) shall include—

(A) a summary of all maintenance projects conducted pursuant to section 411(o)(3) of the Homeland Security Act of 2002, as added by subsection (a) during the prior fiscal year;

(B) the cost of each project referred to in subparagraph (A);

(C) the account that funded each such project, if applicable; and

(D) any budgetary transfers, if applicable, that funded each such project.

(c) **TECHNICAL AMENDMENT.**—Section 422(a) of the Homeland Security Act of 2002 (6 U.S.C. 232(a)) is amended by inserting “section 411(o)(3) of this Act and” after “Administrator under”.

Ms. HASSAN. I ask unanimous consent that the committee-reported substitute amendment be agreed to; the bill, as amended, be considered read a third time and passed; and that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.